

**UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND**

CITIBANK, N.A., AS TRUSTEE FOR
AMERICAN HOME MORTGAGE ASSETS
TRUST 2006-3, MORTGAGE BACKED
PASS-THROUGH CERTIFICATES SERIES
2006-3,

Plaintiff,

v.

C.A. No. 1:18-cv-00427-JJM

KATHERINE L. CAITO,

Defendant,

v.

INTERNAL REVENUE SERVICE,

Interested Party.

MOTION TO EXTEND DEADLINE TO CONDUCT SALE

Plaintiff, Citibank, N.A., as Trustee for American Home Mortgage Assets Trust 2006-3, Mortgage Backed Pass-Through Certificates Series 2006-3 (“Plaintiff”), requests an extension of the deadline to conduct a public sale set in the January 27, 2020 Judgment entered in their favor so that foreclosure of property located at 16 Yosemite Valley Road Westerly, Rhode Island (the “Property”) may proceed now that the First Circuit Court of Appeals has affirmed judgment. In further support of this motion, Plaintiff submits the following:

This Court entered judgment against the Defendant, Katherine L. Caito (“Defendant”) and in favor of the Plaintiff on January 27, 2020, and in doing so authorized sale of the Property by public sale in accordance with R.I. Gen. Laws § 34-27-4(a) and 4(b). (Judgment, ECF No. 58 at ¶¶ 5-6.) The Court set a 120-day deadline from the date of judgment for the Plaintiff to conduct

the sale “except as otherwise, ordered, modified or extended by the Court.” (*Id.* at ¶ 6.) The Defendant appealed the Court’s judgment to the United States Court of Appeals for the First Circuit. (See Notice of Appeal, ECF. No. 56.) The Court of Appeals assigned the Defendant’s appeal a Case Number COA20-1100.

On November 16, 2022, the Court of Appeals issued judgment in favor of the Plaintiff on Defendant’s appeal. (ECF No. 60.) Following the Court of Appeals’ denial of a Petition for Rehearing and Rehearing *en banc*, the Court issued a formal Mandate in accordance with the November 16, 2022 judgment. (ECF No. 61.) In accordance with this Court’s judgment, Plaintiff requests an extension of the sale deadline in the Judgment in order to proceed with foreclosure of the Property not that the Defendant’s appeal is closed.

The Court’s January 27, 2020 order allowing for the sale of Property by foreclosure following the Court’s entry of summary judgment in favor of the Plaintiff expressly allowed for an extension of the deadline for Plaintiff to conduct a public sale in accordance with Rhode Island law. Before the Court could even enter judgment authorizing the sale, the Defendant appealed the Court’s summary judgment decision to the First Circuit Court of Appeals. On appeal, the Defendant raised a series of challenges to this Court’s summary judgment decision challenging Plaintiff’s authority to foreclose and pre-foreclosure procedures. While the First Circuit ultimately denied all challenges and affirmed summary judgment in favor of the Plaintiff, the Plaintiff did not proceed with a public sale of the Property out of an abundance of caution that an adverse decision would vacate, void or otherwise dispose of the Court’s order allowing sale.

Now that the First Circuit has affirmed judgment in favor of the Plaintiff and the Defendant has exhausted appeal of this Court’s summary judgment decision, the Plaintiff requests the following relief:

1. Plaintiff is hereby authorized to conduct a public sale of the Property pursuant to the January 27, 2020 Judgment no more than 120 days from the date order is entered on this Motion except as otherwise ordered, modified or extended by the Court with Plaintiff publishing and giving notice of such sale to such persons and in such manner as provided for in R.I. Gen. Laws §34-27-4(a) and 4(b) respectively.

Plaintiff further requests that all other provisions within the January 27, 2020 order remain in place.

Respectfully submitted,

CITIBANK, N.A., AS TRUSTEE FOR
AMERICAN HOME MORTGAGE
ASSETS TRUST 2006-3,
MORTGAGE BACKED PASS-
THROUGH CERTIFICATES SERIES
2006-3,

By Its Attorneys,

/s/ Samuel C. Bodurtha

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Dated: April 18, 2023

CERTIFICATE OF SERVICE

I, Samuel C. Bodurtha, hereby certify that the documents filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as nonregistered participants on April 18, 2023.

/s/ Samuel C. Bodurtha

Samuel C. Bodurtha